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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,205	12/07/2001	Philip P. Carvey	2390.1006-009	9706
21005 7590 01/26/2009 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			EXAMINER LEE, ANDREW CHUNG CHEUNG	
			ART UNIT 2419	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/021,205

Applicant(s)

CARVEY ET AL.

Examiner

Andrew C. Lee

Art Unit

2419

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/21/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,6,8,9 and 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date 10/21/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 1, 3, 5, 7, 10 are pending.
2. Claims 2, 4, 6, 8 – 9, 11 – 14 had been canceled.

Terminal Disclaimer

3. The terminal disclaimer filed on 11/10/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent no. US 6359879 B1 has been reviewed and is accepted. The terminal disclaimer has been recorded.

4. The indicated allowability of claims 1, 3, 5, 7, 10 is withdrawn in view of the newly discovered reference(s) to Wong et al. (US 20040037278 B1) and Chevalier et al. (US 6262974 B1). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. (US 20040037278 B1) in view of Chevalier et al. (US 6262974 B1).

Regarding claim 1, Wong et al. disclose a network router (*Fig. 1, element 10, packet switch as network router; para. [0012]*) comprising: a plurality of trunk ports, including a composite port of plural ports to plurality trunks which serve as a composite trunk to a common destination (*"at least one trunk formed by a plurality of aggregated network links; para. [0012],[0013]"*); a routing fabric for transfer of data packets between trunk ports (*"switching fabric" as routing fabric; Fig. 2, element 10 switch fabric, para. [0044]*) and an output port selector (*"a network output port arbitration sub-system" as an output port selector; para. [0052], Fig. 3A*) which selects an output port for a packet from a composite port, the output port selector balancing load across the trunks of a composite trunk according to adjustable weighting (*"a network output port arbitration sub-system" as an output port selector; para. [0052], Fig. 3A*) selects an output port for a packet from a composite port, the output port selector balancing load across the trunks of a composite trunk according to adjustable weighting (*Fig. 2, element 168, para. [0044], [0048]; [0052]; "the loading of each of the network links of each of the trunked links is proportional to the number of packets transmitted to the particular link, and is determined in accordance with the type of load balancing scheme" as adjustable weighting; para. [0040]*).

Wong et al. discloses implicitly dynamically adjustable weighting (*"implemented a dynamic trunked port mapping" correlates to dynamically adjustable weighting; para. [0040], [0042]*). Wong et al. do not disclose explicitly dynamically adjustable weighting, and the load approaching balance across the trunks.

Chevalier et al. in the same field of endeavor teach dynamically adjustable weighting (*"dynamically adjusting the bandwidth of an already established connection*

with improved fairness"; col. 1, lines 11 - 16, col. 2, lines 37 - 39), and the load approaching balance across the trunks (*"loading balancing for fairly distributing the traffic over all the links"*; col. 2, lines 37 - 39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include dynamically adjustable weighting and the load approaching balance across the trunks as taught by Chevalier et al. in order to provide fairness in network connection bandwidth assignment at both the connection set-up level and by varying bandwidth dynamically assigned to already established connections without breaking established connections of lower connecting priority levels (*as suggested by Chevalier et al. , see col. 4, lines 38 - 42*).

Regarding claim 5, Wong et al. disclose a method of routing packets in a network (*"a local area network switch including a plurality of network ports for transmitting and receiving packets to and from network nodes via network links"*; para. [0012]) comprising: identifying a destination of the packets (*"the packet having a source value and a destination address value indicating a destination node"*; para. [0013]); selecting one of plurality trunks forming a composite trunk to the destination, the trunk being selected with adjustable weighting to balance load across the trunk of a composite trunk; forwarding the packets toward the destination on the selected trunk (*"a third packet is received from the high speed server at port B₄, the packet routing unit generates a destination port ID value indicating trunked port P₆ as the destination trunked port associated with the third packet, and the load balancing unit selects a destination port from ports D₄ - D₇ of the trunked destination port P₆"*; para. [0039]); also *"the loading of each of the network links of each of the trunked links is proportional to the number of packets transmitted to the*

particular link, and is determined in accordance with the type of load balancing scheme" as adjustable weighting; paras. [0040], [0042]). Wong et al. also disclose implicitly dynamically adjustable to balance load across the trunks of a composite trunk ("*dynamic trunked port mapping scheme*" correlates to dynamically adjustable to balance load across the trunks of a composite trunk; para. [0042]).

Wong et al. do not disclose explicitly dynamically adjustable weighting to balance load across the trunks of a composite trunk, the load approaching balance across the trunks.

Chevalier et al. in the same field of endeavor teach dynamically adjustable weighting to balance load across the trunks of a composite trunk ("dynamically adjusting the bandwidth of an already established connection with improved fairness"; col. 1, lines 11 - 16, col. 2, lines 37 - 39), the load approaching balance across the trunks ("*loading balancing for fairly distributing the traffic over all the links*"; col. 2, lines 37 - 39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include dynamically adjustable weighting to balance load across the trunks of a composite trunk, the load approaching balance across the trunks such as that taught by Chevalier et al. in order to provide fairness in network connection bandwidth assignment at both the connection set-up level and by varying bandwidth dynamically assigned to already established connections without breaking established connections of lower connecting priority levels (*as suggested by Chevalier et al. , see col. 4, lines 38 - 42*).

7. Claims 3, 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. (US 20040037278 B1), and Fenner (5095480) in view of Chevalier et al. (US 6262974 B1).

Regarding claim 3, Wong et al. disclose the limitation of a network router router (*Fig. 1, element 10, packet switch as network router; para. [0012]*) comprising: a plurality of trunk ports, including a composite port of plural ports to plural trunks which serve as a composite trunk to a common destination (*"at least one trunk formed by a plurality of aggregated network links; para. [0012],[0013]"*); a routing fabric for transfer of data packets between trunk ports (*"switching fabric" as routing fabric; Fig. 2, element 10 switch fabric, para. [0044]*); and an output port selector (*"a network output port arbitration sub-system" as an output port selector; para. [0052], Fig. 3A*) which selects an output port for a packet from a composite port according to a table, the table routes being adjustable (*paras. [0041], [0042], "a network output port arbitration sub-system" as an output port selector; para. [0052], Fig. 3A*), selects an output port for a packet from a composite port according to a table, the table routes being adjustable (*Fig. 2, element 168, para. [0044], [0048]; [0052]; "the loading of each of the network links of each of the trunked links is proportional to the number of packets transmitted to the particular link, and is determined in accordance with the type of load balancing scheme" as adjustable weighting; paras. [0040]-[0042]*).

Wong et al. disclose implicitly wherein the table is dynamically adjustable to balance load across the trunks of a composite trunk *weighting ("implemented a dynamic trunked port mapping" correlates to dynamically adjustable weighting; para. [0040]*,

[0042]). Wong et al. do not disclose explicitly the table routes being dynamically adjustable.

Fenner in the same field of endeavor teaches the table routes being dynamically adjustable (*"dynamic hashing and memory allocation techniques automatically adjust the size of the routing table"* as the table routes being dynamically adjustable; column 4, lines 60 – 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include the table routes being dynamically adjustable such as that taught by Fenner in order to provide a selection of approaches to allow graceful degradation of the routing efficiency when the memory available for routing tables is full, *as suggested by Fenner, see col.4, lines 65 – 68.*

Neither Wong et al. nor Fenner disclose explicitly routes being dynamically adjustable for a load to approach balance the trunks.

Chevalier et al. in the same field of endeavor teach routes being dynamically adjustable for a load to approach balance the trunks "dynamically adjusting the bandwidth of an already established connection with improved fairness"; col. 1, lines 11 - 16, col. 2, lines 37 – 39, *"loading balancing for fairly distributing the traffic over all the links"*; col. 2, lines 37 – 39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include routes being dynamically adjustable for a load to approach balance the trunks as taught by Chevalier et al. in order to provide fairness in network connection bandwidth assignment at both the connection set-up level and by varying bandwidth dynamically assigned to already established connections

without breaking established connections of lower connecting priority levels (as suggested by Chevalier et al. , see col. 4, lines 38 – 42).

Regarding claim 7, Wong et al. disclose a method of routing packets in a network (*“a local area network switch including a plurality of network ports for transmitting and receiving packets to and from network nodes via network links”; para. [0012]*) comprising: identifying a destination of the packets (*“the packet having a source value and a destination address value indicating a destination node”; para. [0013]*); selecting one of plural trunks forming a composite trunk to the destination, the trunk being selected according to a table, the table routes being adjustable; and forwarding the packets toward the destination on the selected trunk (*“a third packet is received from the high speed server at port B₄, the packet routing unit generates a destination port ID value indicating trunked port P₆ as the destination trunked port associated with the third packet, and the load balancing unit selects a destination port from ports D₄ – D₇ of the trunked destination port P₆”; para. [0039]*); also *“the loading of each of the network links of each of the trunked links is proportional to the number of packets transmitted to the particular link, and is determined in accordance with the type of load balancing scheme” as adjustable weighting; paras. [0040], [0042]*).

Wong et al. disclose implicitly wherein the table is dynamically adjustable to balance load across the trunks of a composite trunk *weighting* (*“implemented a dynamic trunked port mapping” correlates to dynamically adjustable weighting; para. [0040], [0042]*). Wong et al. do not disclose explicitly the table routes being dynamically adjustable.

Fenner in the same field of endeavor teaches the table routes being dynamically adjustable ("*dynamic hashing and memory allocation techniques automatically adjust the size of the routing table*" as the table routes being dynamically adjustable; column 4, lines 60 – 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include the table routes being dynamically adjustable such as that taught by Fenner in order to provide a selection of approaches to allow graceful degradation of the routing efficiency when the memory available for routing tables is full, as suggested by Fenner, see col.4, lines 65 – 68.

Neither Wong et al. nor Fenner disclose explicitly routes being dynamically adjustable for a load to approach balance the trunks.

Chevalier et al. in the same field of endeavor teach routes being dynamically adjustable for a load to approach balance the trunks "dynamically adjusting the bandwidth of an already established connection with improved fairness"; col. 1, lines 11 - 16, col. 2, lines 37 – 39, "*loading balancing for fairly distributing the traffic over all the links*"; col. 2, lines 37 – 39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include routes being dynamically adjustable for a load to approach balance the trunks as taught by Chevalier et al. in order to provide fairness in network connection bandwidth assignment at both the connection set-up level and by varying bandwidth dynamically assigned to already established connections without breaking established connections of lower connecting priority levels (as suggested by Chevalier et al. , see col. 4, lines 38 – 42).

Regarding claim 10, Wong et al. disclose the limitation of a method of routing packets in a network (*"a local area network switch including a plurality of network ports for transmitting and receiving packets to and from network nodes via network links"; para. [0012]*). Wong et al. also teach network is Ethernet and route packet through Ethernet.

Wong et al. do not disclose explicitly claimed wherein the network is the Internet and the packets are routed under an Internet protocol.

Fenner in the same field of endeavor teaches claimed wherein the network is the Internet and the packets are routed under an Internet protocol (*"Internet router learns the location of these numbers within the network from the Internet protocol traffic"; col. 5, lines 28 – 31, lines 41 – 50*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wong et al. to include a method as claimed wherein the network is the Internet and the packets are routed under an Internet protocol such as that taught by such as that such as that taught by Fenner in order to provide a selection of approaches to allow graceful degradation of the routing efficiency when the memory available for routing tables is full, *as suggested by Fenner, see column 4, lines 65 – 68*.

Response to Arguments

8. Applicant's arguments filed on 10/21/2008 with respect to claims 1, 3, 5, 7, 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571)272-

3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C Lee/
Examiner, Art Unit 2419
<1/11/2009:2Qy09>

/Chirag G Shah/

Supervisory Patent Examiner, Art Unit 2419